



Federal Damage Prevention Requirements

Alabama Gas Pipeline Safety Seminar Montgomery, AL

December 4, 2013

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Know what's below.
Call before you dig.

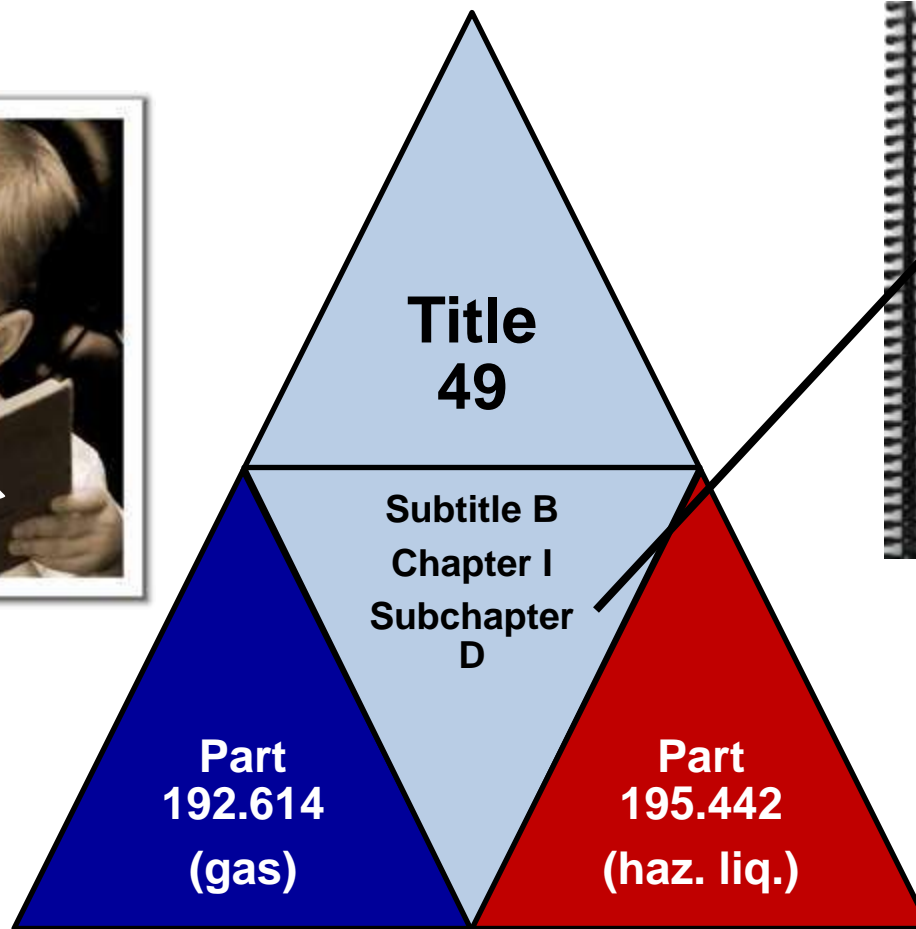
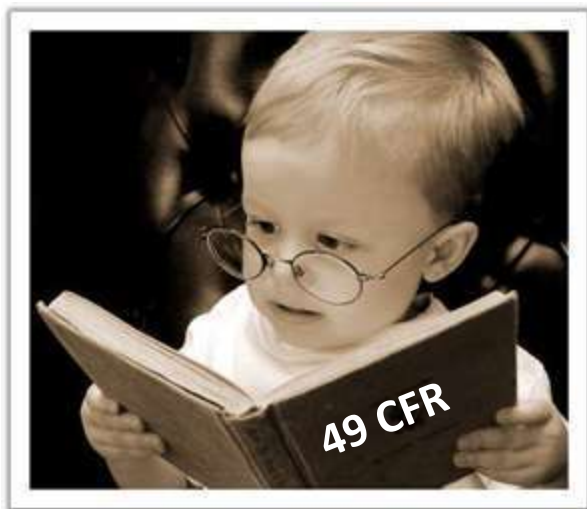


Presentation Overview

- Current Damage Prevention Regulations
- Future Damage Prevention Regulations
- Alabama Damage Prevention Program



Where are Damage Prevention Rules?



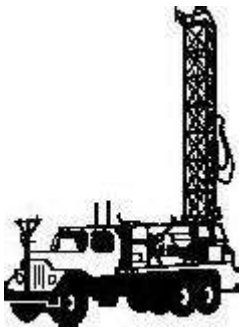
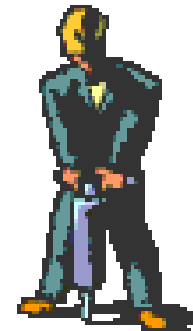
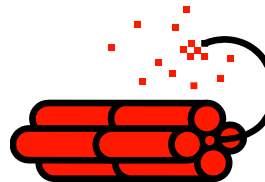
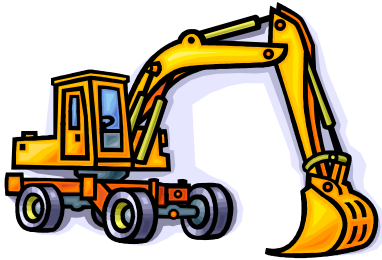
Parts 186-199

Damage Prevention Program 49 CFR 192.614 and 195.442

Pipeline operators must have *written programs* to prevent damage from excavation activities and *participate in qualified “one call” system*

What are “excavation activities”?

- Excavation
- Blasting
- Boring
- Tunneling
- Backfilling
- Removal of aboveground structures by explosive or mechanical means
- Other earthmoving operations



PIPES ACT 2006

Prohibition Applicable to Excavators

“A person who engages in demolition, excavation, tunneling, or construction”:



**Excavator subject to civil penalties
and
other enforcement actions**

PIPES ACT 2006

Prohibition Applicable to Operators

- **Operator may not fail to respond to a locate request**
- **Operator may not fail to take reasonable steps to ensure accurate marking**



**Operator subject to civil action
or
assessment of a civil penalty**

PIPES ACT 2006

Limitation on Enforcement

When does PHMSA take enforcement action?

- 1) state's enforcement program is inadequate to protect safety; and**
- 2) PHMSA issues rules with procedures for determining inadequate State enforcement**

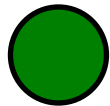
PIPES ACT 2006

9 Elements of an Effective Damage Prevention Program

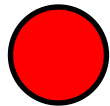
1. Effective communication throughout excavation process
2. Partnership of all stakeholders
3. Performance measures for locators
4. Partnership in employee training
5. Partnership in public education
6. A dispute resolution process that defines the enforcement agency as a partner and facilitator
7. Fair and consistent enforcement of the law
8. Use of technology
9. Data analysis and continual improvement

Alabama's Damage Prevention Program

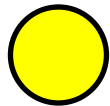
PHMSA SDPPC initiative: evaluated state programs against 9 elements



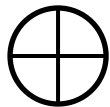
program element implemented



not implemented, needs to be addressed



partially implemented, actions underway or planned for improvements or not



No information available or not applicable



Alabama's Damage Prevention Program

- 4** Partnership in Employee Training
- 6** Enforcement Agencies' Role to Help Resolve Issues
- 7** Fair and Consistent Enforcement of the Law
- 8** Use of Technology to Improve the Locating Process
- 9** Data Analysis to Continually Improve Program Effectiveness

PIPES ACT 2006

Status of Rulemaking

ANPRM in FR

Oct 29, 2009

NPRM in FR

April 2, 2012

NPRM comment period ended

July 9, 2012

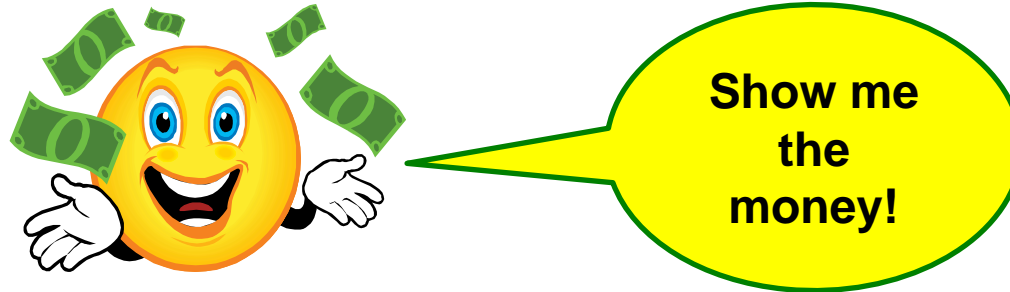
- **New Part 196** – Protection of Underground Pipelines from Excavation Activity: 1) definitions; 2) requirements for excavators; and 3) enforcement procedures for PHMSA
- **Additions to Part 198** – Regulations for Grants to aid State Pipeline Safety Programs: 1) standards for effective state damage prevention enforcement programs; 2) administrative procedures for states to contest notice of inadequacy

PSRCJC ACT OF 2011 SIGNED JANUARY 03, 2012



PSRCJC ACT – Section 3

Pipeline Damage Prevention



- (a) To Qualify for a Grant, State one-call programs, **as a minimum**, must provide for:
- Appropriate participation by all underground facility operators (including all gov't operators)
 - Appropriate participation by all excavators
(i.e NO EXEMPTIONS!)
 - Flexible/effective enforcement under State law

PSRCJC ACT – Section 3

Pipeline Damage Prevention

(b) State Damage Prevention Programs

No exemptions to municipalities, State agencies or their contractors from one-call requirements of program

(c) Effective Date - 1/3/14

i.e. no one-call or damage prevention grants if exemptions



PSRCJC ACT – Section 3

Pipeline Damage Prevention

(d) Excavation Damage

DOT will conduct study; impact of excavation on pipeline safety:

- A. Analyze frequency/severity of damage incidents**
- B. Analyze exemptions to state one-call requirements**
- C. Compare above (B) to types of damage incidents**
- D. Analyze potential safety benefits and consequences of eliminating all exemptions for mechanized excavation from state one-call**

Report no later than 2 years from enactment date (1/3/14)

PHMSA's Position on Damage Prevention

- **PHMSA believes effective damage prevention programs should be developed and implemented at the state level**
- **PHMSA is strong supporter of state damage prevention enforcement to protect pipelines**
- **PHMSA strongly believes states should have primary responsibility to effectively enforce damage prevention laws through use of civil penalties**
- **PHMSA supports states by providing one-call and damage prevention grants**

Damage Prevention Summary

Part 192.614 and 195.442

- damage prevention program for operators

written DP program

participate in
qualified one-call

PIPES Act 2006

- excavators must: 1) *use one-call*; 2) *pay attention to marks*; 3) *report damage*
- operators must: 1) *respond to locate request*; 2) *accurately mark*
- civil penalties excavators and operators
- damage prevention grants to states – must have program that meets or shows progress towards 9 elements
- enforcement by PHMSA

state enforcement
inadequate

Need rules
published in FR

ANPRM - October 29, 2009

NPRM - April 2, 2012

Damage Prevention Summary

Proposed Final Rule (*December 2013 estimated date in FR*)

Part 196 and additions to Part 198

- requirements for excavators
- enforcement procedures for PHMSA
- standards for effective state DP enforcement programs

PSRCJC Act 2011

Grants (awarded on or after January 3, 2014)

- one-call – participation of all underground facility operators and all excavators; and state enforcement one-call use/participation
- damage prevention – no exemptions

Study

- PHMSA study exemptions
- report to Congress January 3, 2014



Questions

